

House Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 4

**HOUSE BILL 2099**

AN ACT

AMENDING SECTIONS 11-424.01, 11-445, 22-131 AND 22-132, ARIZONA REVISED STATUTES; AMENDING TITLE 22, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 22-136; RELATING TO CONSTABLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-424.01, Arizona Revised Statutes, is amended to  
3 read:

4 11-424.01. Salaries of precinct officers other than justices of  
5 the peace; definition

6 A. At the regular June meeting of the several boards of supervisors  
7 preceding a general election, the boards shall fix the salaries of all  
8 precinct officers, other than justices of the peace, for those officers to  
9 be elected for the four-year period commencing on the first day of the  
10 following January.

11 B. IN PRECINCTS WITH AN AVERAGE OF NO MORE THAN ONE HUNDRED TOTAL  
12 CIVIL CASES ON FILE OVER THE PREVIOUS FOUR YEARS, THE CONSTABLES SHALL  
13 RECEIVE ANNUAL SALARIES OF NOT MORE THAN FIFTEEN THOUSAND DOLLARS.

14 C. IN PRECINCTS WITH AN AVERAGE OF MORE THAN ONE HUNDRED TOTAL CIVIL  
15 CASES ON FILE OVER THE PREVIOUS FOUR YEARS, THE CONSTABLES SHALL BE PAID AS  
16 FOLLOWS:

17 ~~B.~~ 1. In precincts having WITH more than ten thousand registered  
18 voters but fewer than twelve thousand registered voters, ~~the constables shall~~  
19 ~~receive~~ annual salaries of not less than twenty-three thousand five hundred  
20 fifty nor more than twenty-eight thousand two hundred sixty dollars.

21 2. In precincts having WITH twelve thousand registered voters but  
22 fewer than sixteen thousand registered voters, ~~the constables shall receive~~  
23 annual salaries of not less than twenty-eight thousand eight hundred eighty  
24 nor more than thirty-four thousand six hundred sixty dollars.

25 3. In precincts having WITH sixteen thousand or more registered  
26 voters, ~~the constables shall receive~~ annual salaries of not less than  
27 forty-eight thousand two hundred ninety-four nor more than fifty-five  
28 thousand six hundred fifty-four dollars.

29 ~~C.~~ D. The board of supervisors shall determine, subject to subsection  
30 SUBSECTIONS B AND C of this section, the salary of a constable appointed to  
31 fill a vacancy caused otherwise than by expiration of term. Nothing in this  
32 subsection shall be deemed to authorize an increase or decrease in the salary  
33 during the term of office of a constable appointed to fill a vacancy.

34 ~~D.~~ E. As used in this section, "registered voter" means a qualified  
35 elector of a precinct WHO IS registered on the ~~first day of~~ June 1 of each  
36 year.

37 Sec. 2. Section 11-445, Arizona Revised Statutes, is amended to read:

38 11-445. Fees chargeable in civil actions by sheriffs,  
39 constables and private process servers; authority of  
40 private process servers; background investigation;  
41 constables' logs

42 A. The sheriff shall receive the following fees in civil actions:

43 1. Serving each true copy of the original summons in a civil suit, ten  
44 dollars.

45 2. Summoning each witness, ten dollars.

1           3. Levying and returning each writ of attachment or claim and  
2 delivery, thirty dollars.

3           4. Taking and approving each bond and returning it to the proper court  
4 when necessary, seven dollars fifty cents.

5           5. Endorsing the forfeiture of any bond required to be endorsed by  
6 him, seven dollars fifty cents.

7           6. Levying each execution, fifteen dollars.

8           7. Returning each execution, ten dollars.

9           8. Executing and returning each writ of possession or restitution,  
10 thirty dollars plus a rate of twenty-five dollars per hour per deputy for the  
11 actual time spent in excess of three hours.

12           9. Posting the advertisement for sale under execution, or any order  
13 of sale, seven dollars fifty cents.

14           10. Posting or serving any notice, process, writ, order, pleading or  
15 paper required or permitted by law, not otherwise provided for, ten dollars.

16           11. Executing a deed to each purchaser of real property under execution  
17 or order of sale, fifteen dollars.

18           12. Executing a bill of sale to each purchaser of real and personal  
19 property under an execution or order of sale, when demanded by the purchaser,  
20 ten dollars.

21           13. For services in designating a homestead or other exempt property,  
22 seven dollars fifty cents.

23           14. For receiving and paying money on redemption and issuing a  
24 certificate of redemption, fifteen dollars.

25           15. Serving and returning each writ of garnishment and related papers,  
26 twenty-five dollars.

27           16. For the preparation, including notarization, of each affidavit of  
28 service or other document pertaining to service, five dollars.

29           B. The sheriff shall also collect the appropriate recording fees where  
30 applicable and other appropriate disbursements.

31           C. The sheriff may charge:

32           1. Thirty-five dollars plus disbursements for any skip tracing  
33 services performed.

34           2. A reasonable fee for storing personal property levied on pursuant  
35 to title 12, chapter 9.

36           D. For traveling to serve or on each attempt to serve civil process,  
37 writs, orders, pleadings or papers, the sheriff shall receive one dollar  
38 fifty cents for each mile actually and necessarily traveled but, in any  
39 event, not to exceed two hundred miles, nor to be less than ten  
40 dollars. Mileage shall be charged one way only. For service made or  
41 attempted at the same time and place, regardless of the number of parties or  
42 the number of papers so served or attempted, only one charge for travel fees  
43 shall be made for such service or attempted service.

44           E. For collecting money on an execution when it is made by sale, the  
45 sheriff and the constable shall receive five dollars for each one hundred

1 dollars or major portion thereof not to exceed a total of two thousand  
2 dollars, but when money is collected by the sheriff without a sale, only  
3 one-half of such fee shall be allowed. When satisfaction or partial  
4 satisfaction of a judgment is received by the judgment creditor after the  
5 sheriff or constable has received an execution on the judgment, the  
6 commission is due the sheriff or constable and is established by an affidavit  
7 of the judgment creditor filed with the officer. If the affidavit is not  
8 lodged with the officer within thirty days of the request, the commission  
9 shall be based on the total amount of judgment due as billed by the officer  
10 and may be collected as any other debt by that officer.

11 F. The sheriff shall be allowed for all process issued from the  
12 supreme court and served by him the same fees as are allowed him for similar  
13 services upon process issued from the superior court.

14 G. The constable shall receive the same fees as the sheriff for  
15 performing the same services in civil actions, except that mileage shall be  
16 computed from the office of the justice of the peace originating the civil  
17 action to the place of service.

18 H. Private process servers duly appointed or registered pursuant to  
19 rules established by the supreme court may serve all process, writs, orders,  
20 pleadings or papers required or permitted by law to be served prior to,  
21 during, or independently of a court action, including all such as are  
22 required or permitted to be served by a sheriff or constable, except writs  
23 or orders requiring the service officer to sell, deliver or take into his  
24 custody persons or property, or as may otherwise be limited by rule  
25 established by the supreme court. A private process server is an officer of  
26 the court. As a condition of registration, the supreme court shall require  
27 each private process server applicant to furnish a full set of fingerprints  
28 to enable a criminal background investigation to be conducted to determine  
29 the suitability of the applicant. The completed applicant fingerprint card  
30 shall be submitted with the fee prescribed in section 41-1750 to the  
31 department of public safety. The applicant shall bear the cost of obtaining  
32 the applicant's criminal history RECORD information. The cost shall not  
33 exceed the actual cost of obtaining the applicant's criminal history RECORD  
34 information. Applicant criminal history records checks shall be conducted  
35 pursuant to section 41-1750 and Public Law 92-544. The department of public  
36 safety is authorized to exchange the submitted applicant fingerprint card  
37 information with the federal bureau of investigation for a national criminal  
38 history records check. A private process server may charge such fees for his  
39 services as may be agreed upon between him and the party engaging  
40 him. However, a party adjudged entitled to recover his costs of suit in any  
41 civil action shall be awarded in any such judgment or order for the costs of  
42 service made by a private process server only the amount actually charged the  
43 party by such private process server or the amount which a sheriff or  
44 constable would have been authorized to charge the party for the same  
45 service, whichever is less.

1 I. Constables shall maintain a record LOG of work related activities  
2 including A LISTING OF all processes served AND THE NUMBER OF PROCESSES  
3 ATTEMPTED TO BE SERVED by case number and, the names of the plaintiffs and  
4 defendants, THE NAMES AND ADDRESSES OF THE PERSON TO BE SERVED EXCEPT AS  
5 OTHERWISE PRECLUDED BY LAW, THE DATE OF PROCESS AND THE DAILY MILEAGE.

6 J. The record LOG MAINTAINED IN SUBSECTION I OF THIS SECTION is a  
7 public record and shall be made available by the constable at his office  
8 during regular office hours. Copies of the record LOG shall be filed  
9 annually in MONTHLY WITH THE CLERK OF the justice court AND WITH THE CLERK  
10 OF THE BOARD OF SUPERVISORS.

11 Sec. 3. Section 22-131, Arizona Revised Statutes, is amended to read:

12 22-131. Powers and duties

13 A. Constables shall attend the courts of justices of the peace within  
14 their precincts when required, and within their counties execute, serve and  
15 return all processes and notices directed or delivered to them by a justice  
16 of the peace of the county or by competent authority. In addition to any  
17 other provision of law these duties may be enforced by the presiding judge  
18 of the superior court in the county, including the use of the power of  
19 contempt.

20 B. The Arizona ~~law enforcement officer advisory council~~ PEACE OFFICER  
21 STANDARDS AND TRAINING BOARD shall provide APPROVE a MANDATORY training  
22 course for constables which will be COVERING TOPICS INCLUDING CIVIL AND  
23 CRIMINAL PROCESS, CONFLICT RESOLUTION AND FIREARM SAFETY provided at least  
24 ~~semiannually~~. Constables shall be required to attend the next available  
25 MANDATORY training course subsequent to their employment WITHIN SIX MONTHS  
26 AFTER ELECTION. IN SUBSEQUENT YEARS, CONSTABLES SHALL ANNUALLY ATTEND AT  
27 LEAST EIGHT HOURS OF ADDITIONAL TRAINING APPROVED BY THE ARIZONA PEACE  
28 OFFICER STANDARDS AND TRAINING BOARD. COPIES OF CERTIFICATES OF COMPLETION  
29 OF THE CONSTABLE TRAINING SHALL BE FORWARDED TO THE CLERK OF THE JUSTICE  
30 COURT AND THE CLERK OF THE BOARD OF SUPERVISORS WITHIN THIRTY DAYS AFTER  
31 COMPLETION.

32 C. Constables, with the consent of and at salaries fixed by the board  
33 of supervisors, may appoint deputies, stenographers, clerks and assistants  
34 necessary to conduct the affairs of their offices. The appointments shall  
35 be in writing and filed in the office of the county recorder.

36 D. The provisions of law relating to sheriffs, so AS far as  
37 applicable, shall govern the powers, duties and liabilities of constables.

38 Sec. 4. Section 22-132, Arizona Revised Statutes, is amended to read:

39 22-132. Expenses

40 Constables shall be allowed by the board of supervisors, as a county  
41 charge, the actual and necessary expenses incurred in TRAINING AS REQUIRED  
42 BY SECTION 22-131, pursuing criminals DEFENDANTS, transacting business  
43 relating to civil and criminal matters, and serving notices and processes,  
44 except that the allowable expenses for service of process in civil actions  
45 shall be as provided in section 11-445.

1       Sec. 5. Title 22, chapter 1, article 3, Arizona Revised Statutes, is  
2 amended by adding section 22-136, to read:

3       22-136. Constable ethics committee

4       A. A CONSTABLE ETHICS COMMITTEE IS ESTABLISHED CONSISTING OF THE  
5 FOLLOWING VOTING MEMBERS:

6       1. TWO CONSTABLES FROM COUNTIES WITH A POPULATION OF LESS THAN ONE  
7 MILLION PERSONS WHO ARE APPOINTED BY THE ARIZONA ASSOCIATION OF COUNTIES.

8       2. TWO CONSTABLES FROM COUNTIES WITH A POPULATION OF ONE MILLION OR  
9 MORE PERSONS WHO ARE APPOINTED BY THE ARIZONA ASSOCIATION OF COUNTIES.

10       3. ONE SUPERIOR COURT JUDGE WHO IS APPOINTED BY THE CHIEF JUSTICE OF  
11 THE SUPREME COURT.

12       4. ONE JUSTICE OF THE PEACE WHO IS APPOINTED BY THE CHIEF JUSTICE OF  
13 THE SUPREME COURT.

14       5. ONE COUNTY ADMINISTRATOR WHO IS APPOINTED BY THE COUNTY SUPERVISORS  
15 ASSOCIATION.

16       6. ONE SHERIFF WHO IS APPOINTED BY THE GOVERNOR.

17       7. ONE MEMBER OF THE PUBLIC WHO IS APPOINTED BY THE GOVERNOR.

18       B. THE CHAIRPERSON OF THE ARIZONA COMMISSION ON JUDICIAL CONDUCT OR  
19 THE CHAIRPERSON'S DESIGNEE WHO IS ALSO A MEMBER OF THE COMMISSION IS THE  
20 CHAIRPERSON OF THE COMMITTEE. THE CHAIRPERSON OF THE COMMITTEE IS A  
21 NONVOTING ADVISORY MEMBER. THE COMMITTEE SHALL ADOPT A CONSTABLE CODE OF  
22 CONDUCT THAT ADDRESSES ATTENDANCE AT MANDATORY TRAINING AND RULES OF  
23 PROCEDURE AND SHALL RECEIVE ADMINISTRATIVE SUPPORT FROM THE ARIZONA  
24 COMMISSION ON JUDICIAL CONDUCT.

25       C. TERMS OF THE COMMITTEE MEMBERS ARE FOUR YEARS, EXCEPT THAT THE  
26 INITIAL TERMS OF TWO CONSTABLES, THE SUPERIOR COURT JUDGE, THE COUNTY  
27 ADMINISTRATOR AND THE SHERIFF ARE TWO YEARS. IF A MEMBER CEASES TO HOLD THE  
28 POSITION THAT QUALIFIED THE MEMBER FOR THE APPOINTMENT, THE MEMBER'S  
29 MEMBERSHIP TERMINATES AND THE APPOINTING AUTHORITY PURSUANT TO SUBSECTION A  
30 FILLS THE VACANCY FOR THE UNEXPIRED TERM.

31       D. THE COMMITTEE SHALL HEAR AND INVESTIGATE WRITTEN COMPLAINTS FROM  
32 ANY PERSON INVOLVING A CONSTABLE'S ETHICAL OR PERSONAL CONDUCT. THE  
33 COMMITTEE SHALL ATTEMPT TO REMEDY A CONSTABLE'S INAPPROPRIATE BEHAVIOR BY:

34       1. MEDIATING.

35       2. ISSUING WARNINGS, REPRIMANDS OR ADMONISHMENTS.

36       3. INSTRUCTING CONSTABLES TO TAKE PARTICULAR ACTION TO CORRECT  
37 BEHAVIOR OR TO TAKE EDUCATIONAL COURSES.

38       4. URGING A CONSTABLE TO RETIRE FROM OFFICE.

39       E. IF THE COMMITTEE IS NOT SATISFIED WITH THE REMEDIES PRESCRIBED BY  
40 SUBSECTION D THE COMMITTEE SHALL SUBMIT A REPORT TO THE COUNTY ATTORNEY'S  
41 OFFICE IN THE COUNTY IN WHICH THE CONDUCT AT ISSUE OCCURRED.

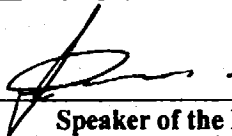
APPROVED BY THE GOVERNOR MARCH 6, 2001

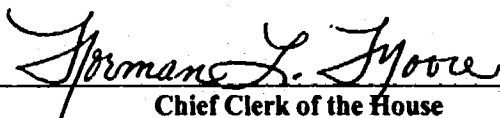
FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 6, 2001.

Passed the House February 19, 2001,

by the following vote: 56 Ayes,

2 Nays, 2 Not Voting

  
Speaker of the House

  
Chief Clerk of the House

Passed the Senate February 28, 2001,

by the following vote: 27 Ayes,

3 Nays, 0 Not Voting

  
President of the Senate

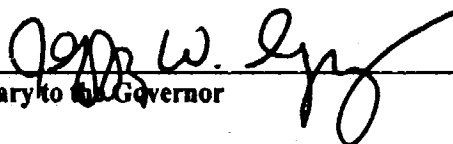
  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

1<sup>st</sup> day of March, 2001,

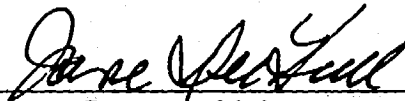
at 8:38 o'clock A M.

  
Secretary to the Governor

Approved this 6 day of

March, 2001,

at 2:09 o'clock P M.

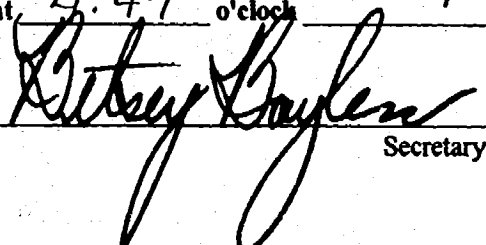
  
Governor of Arizona

H.B. 2099

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 6 day of March, 2001,

at 4:44 o'clock P M.

  
Secretary of State